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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,220	02/06/2001	Steve Alexander Whitlock	16600.105006	5736
20786 7590 02/08/2007 KING & SPALDING LLP 1180 PEACHTREE STREET ATLANTA, GA 30309-3521			EXAMINER PLUCINSKI, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/778,220

Applicant(s)

WHITLOCK ET AL.

Examiner

Jamisue A. Plucinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant's invention claims a method for supporting the efficient transfer of baggage and calculating potential assignments and routes for the baggage. The claims even claim an equation used for calculating the cost of the assignment to determine the assignment solution. The specification discloses a working example of how the cost of each route is calculated, however appears to use arbitrary numbers for the variables used and does not disclose how they variables are obtained. The equation given, uses multiple variables for cost, such as "bag cost" and "stop cost" as well as "balance cost" and "pair cost", which the specification lacks a description of how these cost are obtained, it merely says they are set. Who are they set by? Are they a published standard cost? Applicant (page 8), further goes on to state the desired efficiency can be achieved by manipulating the values of the weighting factors (the costs above), but never discloses how they are manipulated to determine the efficiency and never gives any bounds on these weighing factors, merely states they can be increased or decreased, If one gives a weighing factor of

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1,000,000 to one variable, is this going to give one a reasonable answer? The specification states that the best solution will vary based on the most important and given the greatest weighting factor. One of ordinary skill in the art, would have to do undue experimentation to determine the cost of all the weighting factors, and how they are determined. Therefore one of ordinary skill in the art would not be able to read the specification and determine how to calculate the potential assignments and routes and determine the best assignment and route, without undue experimentation.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With respect to Claim 1: "the most efficient assignment and most efficient route" lacks antecedent basis.

6. With respect to Claims 1-28: Due to the 112 1<sup>st</sup> paragraph rejection, and the lack of support the specification has for the claims. The examiner cannot reasonably ascertain the scope of these claims. Therefore, a lack of prior art rejection, does not indicate that these claims are allowable.

***Response to Amendment***

7. The declaration under 37 CFR 1.132 filed 11/20/06 is insufficient to overcome the rejection of claims 1-25 based upon 112 1<sup>st</sup> paragraph as set forth in the last Office action because: The individual making the affidavit has stated that she is one of ordinary skill in the art in the art of industrial engineering, however has not stated that she has worked with baggage and baggage assignments. Therefore, the person making the affidavit is not considered to be one of ordinary skill in the art in the baggage industry. The numbers in used in the example of the specification appear to be random numbers for cost, however the affidavit does not set forth whether the cost numbers presented (e.g. in Figure 6) are well known in the industry. Furthermore, due to the fact that the person making the affidavit has never worked in the baggage industry, would be unable to determine whether those numbers are well known or common knowledge in the industry, nor does the affidavit set forth whether the weighting factors are well known or common knowledge in the baggage industry. The affidavit sets forth that one of ordinary skill in the art would be able to follow the working example and come up with the baggage solution given, and states that the use of weighting factors are typically utilized in optimization solutions. However, without any bounds on the weighting factors, and given arbitrary numbers, the application can only be processed with those particular numbers, and can not be calculated for any other scenario, due to the lack of description of how the numbers in the working example are obtained, specifically the costs or the weighting factors. The person making the affidavit states that one of ordinary skill in the art could use the working examples as a starting point and tailor the solution for their environment, such as different airport, but gives no evidence on how one of ordinary skill in the art could do this. The person making the

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affidavit is not considered one of ordinary skill in the art in the baggage industry, therefore even though they make the statement that one of ordinary skill in the art would be able to tailor the solution for different environments such as different airport, the specification does not set forth how the variables are determined, therefore without any explanation of how these numbers (costs and weighting factors) can be determined or tailored, the examiner considers the claims to lack enablement due to undue experimentation and the affidavit is not considered to be persuasive the rejection stands as stated above.

***Response to Arguments***

8. Applicant's arguments filed 2/22/06 have been fully considered but they are not persuasive.
9. With respect to Applicant's argument that the specification is fully enabled: the applicant has relied on the affidavit in part, as disclosed above, the affidavit is not persuasive. See above for response to affidavit.
10. The applicant has amended claims 26-28 to include the calculations which the examiner considers to lack enablement, as stated above. Therefore the examiner has dropped the prior art rejection for these claims, and have added the 112 1<sup>st</sup> paragraph rejection to the claims.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

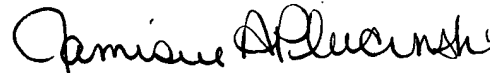
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Plucinski whose telephone number is (571) 272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jamisue Plucinski  
Patent Examiner  
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